

REMARKS

The claims have been presented in this Amendment After Final as required by 37 C.F.R. 1.173(b) as noted by the Examiner in the outstanding Office Action. Specifically, the new claims that have been presented beyond the original claims of the issued patent have been underlined. It is submitted that these amendments do constitute new matter for the reasons set forth in the previous amendments in which the new claims were introduced. The entry of these amendments is requested.

The Examiner rejected claims 12-22 under 35 U.S.C. § 251 as being broadened in a reissue application filed outside the two-year statutory period. The Examiner notes that these claims were not presented until 2003, more than two years after issue of the original patent. It is submitted that the present reissue application was timely filed, i.e., it was filed before the end of the two-year statutory period for a broadening reissue. The Applicants indicated in the reissue Declaration that the claims were broadened, i.e., Applicants stated that they had claimed less than they had the right to claim. Thus, it is submitted that Applicants timely filed a broadening reissue application. Because a broadening reissue was timely filed, Applicants can subsequently further broaden the claims in the pending reissue application, even if the additional broadening occurs beyond the two year limit. *In re Doll*, 164, U.S.P.Q. 218, 220 (CCPA 1979). *See also, In re Clement*, 45 U.S.P.Q.2d 1161 (Fed. Cir. 1997). Thus, it is submitted that claims 12-22 comply with the requirements of 35 U.S.C. § 251.

Furthermore, in view of the rejection of the claims for a defective reissue declaration, a Supplemental Declaration for Reissue Patent Application is submitted herewith. It is submitted that this Supplemental Declaration for Reissue Patent Application further obviates this rejection of claims 12-22 under 35 U.S.C. § 251.

For these reasons, it is submitted that claims 12-22 fully comply with 35 U.S.C. § 251. Withdrawal of this rejection is requested.

The Examiner rejected claims 9-22 as being based on a defective reissue declaration under 35 U.S.C. § 251. The Examiner noted that an appropriate supplemental declaration under 37 C.F.R. § 1.175(b)(1) would overcome this rejection under 35 U.S.C. § 251. A Supplemental Declaration for Reissue Patent Application is submitted herewith, along with a Petition Under 37 C.F.R. § 1.183

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because one of the inventors could not be located to sign the Supplemental Declaration for Reissue Patent Application. It is submitted that this Supplemental Declaration obviates this rejection, and its withdrawal is requested.

It is submitted that the present claims satisfy the requirements of the patent statutes and are patentable over the prior art. Reconsideration of this application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned in order to expedite prosecution of the present application.

Respectfully submitted,

By



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